LAU BEE LAN v. WONG LAI KUEN

HIGH COURT MALAYA, KUALA LUMPUR
ROZ MAWAR ROZAIN JC
[ORIGINATING SUMMONS NO: WA-24NCvC-5580-12-2023]
26 JULY 2024

Abstract – *(i) Before 1 March 1982, marriages carried out according to traditional or customary rites were considered valid and deemed registered. However, after 1 March 1982, all marriages must be registered in accordance to the Law Reform (Marriage and Divorce) Act 1976 ('Act'), otherwise they are not valid. Under s. 5 of the Act, one can contract one marriage only at a time. The subsequent marriage is deemed an egregious act that attracts s. 7(1) of the Act; (ii) The title 'Puan Sri' is a social convention rather than a legal right, and its conferral is not subject to specific legal requirements.*

FAMILY LAW: *Marriage – Validity – Lawful wife – Parties each claimed to be rightful wife of deceased – Whether evidence adduced by parties supported each one's claim of being rightful wife of deceased – Who was lawful wife of deceased – Law Reform (Marriage and Divorce) Act 1976, ss. 5 & 7(1)*

CIVIL PROCEDURE: *Declaration – Rightful wife – Parties each claimed to be rightful wife of deceased – Whether evidence adduced by parties supported each one's claim of being rightful wife of deceased – Who was lawful wife of deceased – Who was entitled to use title 'Puan Sri'*

CIVIL PROCEDURE: *Injunction – Application for – Plaintiff claimed to be rightful wife of deceased – Deceased 'Tan Sri' – Plaintiff sought injunction that defendant ought not to be allowed to use title 'Puan Sri' – Whether injunction ought to be granted – Whether title conferred legal in nature – Whether social convention*

The plaintiff and the defendant each claimed to be the rightful wife of the late Tan Sri Dato' Lim Tong Yong @ Lim Tong Yaim ('deceased'). In support of her claim, the plaintiff adduced a marriage certificate which proclaimed a union between herself and the deceased in 1974 until his demise on 12 August 2023. The plaintiff further sought: (i) a declaration that the title 'Puan Sri' ought to be hers to use and hers alone; and (ii) an injunction against the defendant from the usage of the title 'Puan Sri'. The defendant, on the other hand, (i) contended that she met the deceased in 1978 in Singapore and they had gone through a Chinese customary marriage; (ii) exhibited photos to support her contentions. The first photo was not dated whilst the second and third photos were each dated 29 June 1997 and 9 September 1999. The fourth photo was more recent than the previous ones with a date stamp of 1 November 2005. The fifth photo of the deceased and the defendant was not dated. There were also photos of the defendant, the deceased and their son,

A Lim Zhao Qi, which were dated September 1986 and April 1987. Several other photos seemed more recent to 1987 but were undated; and (iii) enclosed statutory declarations that supported her contention that she was married to the deceased.

Held (declaring plaintiff sole lawful wife of deceased):

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(1) The amendment to the Malaysian law, on 1 March 1982, s. 5 of the Law Reform (Marriage and Divorce) Act 1976, which was applicable to the parties, makes it clear that one can contract one marriage only at a time. The subsequent marriage is deemed an egregious act that attracts s. 7(1) of the Act and also s. 494 of the Penal Code. (paras 2 & 3)

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(2) The plaintiff was legally married to the deceased on 18 December 1974. It was through a customary Chinese wedding in Muar, Johor. Their marriage was registered on the same day at the National Registration Department (District of Muar). It was prior to the enforcement of the

D Act. With the registration, it was apparent that they had the intention to form a permanent union in the form of husband and wife. Together, they bore five children. The timeline was important as it would indicate that the marriage had carried on as it was with the plaintiff and the deceased having cohabitated from 1974. Their first to fifth child were

E born in 1974, 1985, 1987, 1991 and 1997, respectively. The address given for the deceased's investiture for the receipt of the awards from the Palace of Negeri Sembilan and Istana Negara all confirmed that the matrimonial home was with the plaintiff. It also gave credence to the reputation of marriage – further confirmed by the condolence note from the office of the Yang di-Pertuan Agong to the family that the deceased

F had with the plaintiff. Therefore, the marriage between the plaintiff and the deceased, through Chinese custom and immediately registered, was a valid one in the eyes of the law. There was no evidence of a dissolution of the marriage. In its absence, it was safe to hold that the plaintiff was the deceased's legal wife from December 1974. (paras 5-7)

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(3) There was no date as to the alleged customary wedding ceremony between the deceased and the defendant. There were no pictures of such a momentous occasion to rule, on a balance of probabilities, that the alleged customary wedding was before 1 March 1982. Lim Zhao Qi was born in 1986. The undisputed evidence was that the deceased was still

H carrying on with his legal marriage with the plaintiff, producing three more children in 1987, 1991 and 1997, respectively. Although there was awareness on the part of the deceased's family members of the deceased having had the defendant and their son in his life, which a few of them loosely called 'another family' or a 'second family', it was not sufficient

I to conclude that the defendant and the deceased held a customary wedding ceremony. No one, not any member of the deceased's family

or even the defendant herself, could procure any evidence whatsoever, whether in the form of pictures or other types or kind, to invite the court to conclude such an event took place before 1 March 1982. (paras 11 & 15)

(4) Acceptance by family members was one thing in terms of carrying on with life and the intricate relationship that bind blood-kins but legalising a position is another. The latter will clearly ascertain and scope in the lawful rights attached thereto. There were statutory declarations from the deceased's social circles and business associates but none of them could state for sure when the defendant married the deceased. Their knowledge of the defendant being the deceased's wife was on the premise that the deceased had introduced her as such. That, in itself, did not mean that there had been a Chinese customary marriage that took place. This 'open secret', as the deceased had brought the defendant instead of the plaintiff to both of the investiture ceremonies, did not give their position a legal standing of a lawful marriage, especially so after 1982. The deceased's family and friends may have accepted the defendant as part of the deceased's life. The deceased may have brought her to the significant ceremonies that illustrated his accomplishments. All these the defendant seemed to have freely and boldly lived towards the end of the 1990s into the early 2000s. Yet, by law, she was not his wife. (paras 16, 17 & 21)

(5) The court took note of the wedding invitations for the defendant's son which were issued under the name of the deceased. That acknowledged the fact that he did indeed father a son with the defendant. However, the invitations did not necessarily mean that they were married prior to 1 March 1982. (para 19)

(6) The title 'Puan Sri', for the wife of a 'Tan Sri' in Malaysia, is more of a customary and traditional practice rather than a legal right. It has a non-legal nature – the conferral of 'Puan Sri' is not enshrined in legal statutes but is rather a social convention. There is no specific law that mandates the title must be given; it is an automatic courtesy title which accompanies the conferral of 'Tan Sri'. It would be best for the plaintiff to revert to Istana Negara where the deceased's Tan Sri-ship was accorded in 2010. The court was not inclined to grant the plaintiff's prayer that she is to be the sole individual who is entitled to use and enjoy the appellation of 'Puan Sri' after the demise of the deceased. Further, evidence did not show that the defendant had indeed used the title 'Puan Sri'. It was not her doing that she had been referred to as 'Puan Sri'; it seemed to be from hers and the deceased's social circle. The relief sought, *ie*, an injunction against the defendant from the usage of the title 'Puan Sri' was not granted. (paras 26, 28 & 29)

A ***Obiter:***

(1) This matter could have been resolved while the deceased was still alive and ought not to have reached the corridors of this court. To seek from this court a declaration that the title 'Puan Sri' ought to be accorded when the deceased had long passed away was avoidable and it burdened
B the judicial system and incurred unnecessary costs for all involved. Litigation should be a last resort, particularly in cases involving personal and familial issues that could have been amicably resolved outside of court. (para 31)

C **Case(s) referred to:**
Cham Kam Kew v. Chan See Chuen & Ors [2014] CLJU 442; [2014] 1 LNS 442 HC ***(refd)***
Hue Chooi Yin v. Chew Pit King [2010] CLJU 998; [2010] 1 LNS 998 HC ***(refd)***
Khoo Guat Tee & Ors v. Lim Kim Neo & Ors [2016] CLJU 69; [2016] 1 LNS 69 HC ***(refd)***
D *Lee Yin v. Kwan Mai Han & Anor [2020] CLJU 1846; [2020] 1 LNS 1846 HC* ***(refd)***
Loo Boo Cheai v. Chen Yuh Feng & Ors [2021] 8 CLJ 867 CA ***(refd)***
Ng Hee Thoong & Anor v. Public Bank Bhd [1995] 1 CLJ 609 CA ***(refd)***

Legislation referred to:
Law Reform (Marriage and Divorce) Act 1976, ss. 4, 5, 7(1), 33
E Penal Code, s. 494

For the plaintiff - Chris Lim Su Heng, Nur Dalilah Zainol Abidin, Nur Khidmah Huzaisham, Rachel Chya Yun Wen (PDK), Meor Amirul Aiman Meor Fakharuddin & Lee Yvonne (PDK); M/s Chris Lim Su Heng
For the defendant - R S Sodhi, Mugelen Chandran & Theng Kai Chi; M/s Sodhi Chambers

F *Reported by Najib Tamby*

JUDGMENT

Roz Mawar Rozain JC:

[1] When a man of considerable standing in Malaysian society had passed
G away in a hospital in China on 12 August 2023, little did anyone suspect that his death would spark a legal battle that would lay bare the complexities of love, marriage, and the weight of tradition in our modern world. Each party that stood before this court claimed that she is the rightful wife of the deceased. This legal battle extends to a 'title fight' as the plaintiff seeks a
H declaration that she is the legal wife of the late Tan Sri Dato' Lim Tong Yong @ Lim Tong Yaim and the title 'Puan Sri' ought to be hers to use and hers alone.

[2] The plaintiff's marriage certificate proudly proclaims a union with the deceased that has endured since 1974 until his death less than a year ago. On
I the other hand, the defendant, who spoke of a love that blossomed in the late 1970s and claimed that they had a marriage solemnised by custom rather

than bureaucracy. A question older than any marriage is: what truly makes a marriage? Is it the stamp of official approval, the blessing of the state? Or is it the lived experience of two people who have chosen to share their lives? A legal response is that the amendment to our law on 1 March 1982 where s. 5 of the Law Reform (Marriage and Divorce) Act 1976 (the Act) which is applicable to the parties here, makes it clear that one can contract one marriage only at a time:

> Every person who on the appointed date is lawfully married under any law, religion, custom or usage to one or more spouses shall be incapable, during the continuance of such marriage, or marriages, of contracting a valid marriage under any law, religion, custom or usage with any other person, whether the first mentioned marriage or the purported second mentioned marriage is contracted within Malaysia or outside of Malaysia.

[3] That subsequent marriage is deemed an egregious act that attracts s. 7(1) of the Act and also s. 494 of the Penal Code. The respective provisions of laws are reproduced herein:

> Any person lawfully married under any law, religion, custom or usage who during the continuance of such marriage purports to contract a marriage under any law, religion, custom or usage in contravention of section 5 shall be deemed to commit the offence of marrying again during the life-time of husband or wife, as the case may be, within the meaning of section 494 of the Penal Code [Act 574].
>
> Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of it taking place during the life of such husband or wife and whether such marriage has taken place within Malaysia or outside Malaysia, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

[4] Thus, this court combs through all the evidence adduced to make a finding of fact as to whether on a balance of probabilities there was a marriage between the deceased and the defendant as the latter had claimed. This court scrutinised the timelines to ascertain whether there is evidence to move this court to conclude, on a balance of probabilities that such purported customary marriage was solemnised prior to 1 March 1982.

The Position Of The Plaintiff

[5] This court is satisfied that the plaintiff, was legally married to the deceased on 18 December 1974. It was through a customary Chinese wedding in Muar, Johor. Their marriage was registered on the same day at the National Registration Department (District of Muar) with Registration Number 391/74 and Siri Number KC100165302. It was prior to the enforcement of the Act in 1976. The Court of Appeal was instructive in its decision in *Loo Boo Cheai v. Chen Yuh Feng & Ors* [2021] 8 CLJ 867; [2021] 6 MLRA 348. Three elements must be fulfilled which are proof of co-habitation, and intention to form a permanent union and reputation of the marriage.

[6] With the registration, it is apparent that they had the intention to form a permanent union in the form of husband and wife. Together, they bore five children. The timeline is important as it would indicate that the marriage had carried on as it was with the plaintiff and the deceased having cohabitated from 1974 – their first daughter Lim Chang Ching was born in 1974, their second child, a son by the name of Lim Zhen Qi was born in 1985, the third child another son Lim Dan Qi was born in 1987, their fourth child a daughter called Lim An Qi was born in 1991 and their youngest child a third son by the name of Lim Jiang Qi who was born in 1997. The address given for the deceased's investiture for the receipt of the awards from the Palace of Negeri Sembilan and from our Istana Negara all confirm that the matrimonial home with the plaintiff. It also gives credence to the reputation of marriage – further confirmed by the condolence note from the office of His Majesty The King (YDPA) to the family the deceased had with the plaintiff.

[7] It is this court's finding of fact that the marriage between the plaintiff and the deceased *vide* Chinese custom and immediately registered was a valid one in the eyes of the law. See ss. 4 and 33 of the Act. There is no evidence of a dissolution of the marriage. In its absence, it is safe for this court to hold that the plaintiff is the deceased's legal wife from December 1974. (See *Lee Yin v. Kwan Mai Han & Anor* [2020] CLJU 1846; [2020] 1 LNS 1846; [2020] MLJU 1887.)

The Defendant's Posture

[8] The defendant contended that she met the deceased in 1978 in Singapore when he was working as a lecturer of Malay Studies at Culin College in Singapore and they had started to live as husband and wife consensually at Subang Jaya in 1979. The plaintiff attacked, on the outset, the evidence that the defendant had procured a valid immigration status to live in Malaysia given that she was born in China and was of a China national. The plaintiff averred that the defendant was married and/or in another relationship of which she had two children. In support of the plaintiff's contention that she and the deceased were living in matrimony in Singapore from 1979 to 1983, she produced evidence of their daughter Lim Chang Cheng's school record of inoculation and statements of account for CPF contributions. Their matrimonial home address in Singapore was at Block 214, 1-F Boon Lay Place. The plaintiff had also challenged the truth of the defendant's averment that the deceased was a lecturer at Culin College Singapore denying the existence of such college.

[9] In the defendant's affidavit, she had also averred that she and the deceased had gone through a Chinese customary marriage. It was in the same paragraph as the information above. At first blush, it gave the impression that the purported Chinese customary marriage had occurred in 1979, although no date was stated in the defendant's affidavits. The defendant had exhibited

some photos. The first of the deceased and the defendant was not dated, the second photo carried the date of 29 June 1997 whilst the third photo was dated 9 September 1999. The fourth photo was more recent than the previous ones with a date stamp of 1 November 2005. The fifth photo of them was not dated. There is a sixth photo which is a picture of the defendant, the deceased and their son, Lim Zhao Qi, which is dated September 1986, and another dated April 1987. Lim Zhao Qi, as this court notes, was born between Lim Zhen Qi (born in 1985) and Lim Dan Qi (born in 1987) from the union of the plaintiff and the deceased.

[10] Several other photos seem more recent to 1987 but are undated. The reason for this court's opinion that the photos were taken after 1987 is based on the more mature appearances of the defendant and the deceased, their clothing and surrounding circumstances that on a balance of probabilities were at a time after 1987. The point remains that there is nothing to corroborate the defendant's contention that her marriage to the deceased was performed by way of Chinese custom. The defendant's additional affidavit enclosed a statutory declaration from Lim Thong Hai who is the older brother of the deceased dated 23 January 2024. He had stated that he was aware his late brother had two families. According to him, the deceased introduced the defendant to the family "some time late 1970s before proceeding to marry her through a Chinese customary marriage in front of our parents." He had also stated:

> Our parents accepted WLK as the deceased's wife and engraved her name onto their tombstone upon their death. I am aware that the deceased and WLK got a son thereafter their marriage and had named him Lim Zhao Qi. I verily believe that from the day the deceased wed WLK till his demised, he never divorced WLK and WLK remained by his side till his death in China.

[11] There are many concerns with this evidence that the defendant presented. Firstly, and most obvious of all, there is no date as to the alleged customary wedding ceremony. Lim Zhao Qi was born in 1986. If at all, it could even be in 1986 itself (that was the position of the deceased's marriage to the plaintiff – they married the same year as the birthdate of their first child). There are no pictures of such a momentous occasion for this court to rule on a balance of probabilities that the alleged customary wedding was before 1 March 1982. The undisputed evidence is that the deceased was still carrying on with his legal marriage with the plaintiff, producing three more children in 1987, 1991 and 1997 respectively. The defendant had managed to procure statutory declarations from the deceased's elder sister Lim A Ait and his sister-in-law, Goh Soh Hua who too confirmed they were aware of the defendant. However, they placed her around 1980 with no definitive date. Thus, the evidence does not serve to help the defendant. In fact, it led to more confusion and uncertainty.

[12] This court is not putting too much weight on the statutory declaration of Goh Soh Hua – her two affidavits are in contradiction of each other. In the first, which was averred on 19 January 2024, she said she was the wife of the deceased's older brother whilst the second one that she had declared on 24 January 2024 stated that she was married to the deceased's younger brother. A mix-up of a fact as elementary as this put the deponent's integrity, credibility and truthfulness in question. In one, she had stated that the defendant had visited the deceased's parents as she was the one who had stayed with the elderly couple until their demise. The later statutory declaration stated that she had taken care of them until the deceased's parents had moved to Kuala Lumpur. On a balance of probabilities, her recollection of facts is highly questionable. There is also information in the public domain that gives suspicions on the accuracy of the facts Goh had declared. Namely, that the deceased's younger brother had taken up Indonesian citizenship and took up the name as Bob Halim Lim who had been residing in Indonesia. Additionally, their daughter announced that she and her brother were brought up singlehandedly by Goh – there were facts that implied this was in Malacca. Hence, on a balance of probabilities, the allegation of Goh taking care of her in-laws (the deceased's parents) in Johor is highly questionable. That makes her evidence unreliable.

[13] As to Lim A Ait, the deceased's elder sister, who would be 75 years old is not proficient in English according to the plaintiff who had challenged her statutory declaration procured by the defendant. In any event, she too did not confirm any date of the purported Chinese customary marriage to the deceased that would support the defendant's contention. The statutory declaration by Lim Moey Yeei, a relation of the deceased, also does not carry with it the full credibility that it may have for two reasons – one is that he was merely a child of the tender age of nine years in 1980 and the other is that his averment that he was present in Guangzhou China to keep the defendant and son Lim Zhao Qi company upon hearing the death of the deceased is a new fact that goes against the undisputed fact that the defendant and son were not present at the funeral in China nor in Malaysia.

[14] This court also assessed the evidence that the demise of the deceased's late father in 2007 whereby there was no mention of the defendant at all despite her efforts to show that the deceased's family had formally accepted her in their fold. The issue of the tombstone which was a more recent addition after the demise of the deceased's mother in 2011 certainly show that the defendant seemed to be a part of the deceased's family, whether or not the plaintiff had consented to it or even aware of it. Nonetheless, it still did not show on a balance of probabilities that the defendant had undergone a Chinese customary marriage ceremony prior to 1982.

[15] The consideration of this court is that although there was awareness on the part of the deceased's family members of him having had the defendant and their son in his life, which a few of them loosely called 'another family' or a 'second family', it is not sufficient to conclude the defendant and the deceased held a customary wedding ceremony. This court notes that no one, not any member of the deceased's family or even the defendant herself could procure any evidence whatsoever, whether in the form of pictures or other types or kind, to invite this court to conclude such an event took place before 1 March 1982.

[16] Acceptance by family members is one thing in terms of carrying on with life and the intricate relationships that bind blood-kins but legalising a position is another. The latter will clearly ascertain and scope in the lawful rights attached thereto.

[17] There were other statutory declarations from the deceased social circle and business associates but none of them could state for sure when the defendant married the deceased. Their knowledge of the defendant being the deceased's wife was on the premise that the deceased had introduced her as such. That in itself did not mean that there had been a Chinese customary marriage that took place. This 'open secret', as the deceased had brought the defendant instead of the plaintiff to both of the investiture ceremonies, does not give their position a legal standing of a lawful marriage, especially so after 1982.

[18] Some who had executed the statutory declarations confirmed that they knew of the deceased's marriage with the plaintiff and also that the deceased had maintained a relationship with the defendant that had produced a son Lim Zhao Qi. The earliest year stated is 1986 when Lim Chin Boon witnessed the birth of Lim Zhao Qi. The rest who made the statutory declarations were introduced to the defendant as the deceased's wife cited 1990s and early 2000s as the date.

[19] This court took note of the wedding invitations for the defendant's son which were issued under the name of the deceased. That acknowledged the fact that he did indeed father a son with the defendant. But, the invitations do not necessarily mean, and here given all the evidence in this case, that they were married prior to 1 March 1982.

The Deceased's Legal Wife

[20] The exercise of scrutinising the evidence is necessary given the legal framework of the Act which on 1 March 1982 significantly altered the landscape of matrimonial law where if there is evidence that the defendant and the deceased had a union solemnised under any custom or usage prior to that date, then the marriage shall be deemed to be registered under the Act. The law provided for under s. 4 of the Act recognises the validity of

customary marriages solemnised before the amendment came into effect, provided they were valid under the relevant custom at the time. The defendant herself had failed to provide the date, year or venue of the purported Chinese customary marriage with the deceased. One of the necessary elements which are necessary to prove such as long continued cohabitation has not been proven. The statutory declarations of many who had attested to her relationship with the deceased fall short of providing concrete evidence of a customary marriage ceremony or its essential elements. On a balance of probabilities, the birth of the defendant's son with the deceased between the second and third sons of the plaintiff with the deceased, points to the illegitimacy of the defendant's relations rather than support her contention of a marriage. The deceased thereafter in 1991 and in 1997 which would be ten years after the defendant's son was born, fathered his two younger children with the plaintiff. To this court's mind, these facts and that where the deceased himself had proffered his matrimonial home as his residential address even in 2010 when he was conferred the award of Tan Sri show a long continuous cohabitation with the plaintiff. (See *Cham Kam Kew v. Chan See Chuen & Ors* [2014] CLJU 442; [2014] 1 LNS 442; *Hue Chooi Yin v. Chew Pit King* [2010] CLJU 998; [2010] 1 LNS 998; [2010] 8 MLRH 819; *Khoo Guat Tee & Ors v. Lim Kim Neo & Ors* [2016] CLJU 69; [2016] 1 LNS 69; [2016] MLRHU 35).

[21] The deceased's family and friends may have accepted the defendant as part of the deceased's life. The deceased may have brought her to the significant ceremonies that illustrate his accomplishments. All these the defendant seemed to have freely and boldly lived towards the end of the 1990s into the early 2000s. Yet by law, she is not his wife.

[22] She had known much about the deceased, as eager lovers often divulge themselves to each other, so she would have most likely known that he was already married when she claimed to have met him. There is also the issue of her capacity to enter into any form of marriage before 1983. The plaintiff made allegations about the defendant's prior marital status and children. The defendant did not provide a direct response to these specific allegations in her affidavits or submissions, as far as can be determined from the given documents and during oral arguments. The defendant's failure to address these allegations may be considered in evaluating the overall credibility of her claim to a customary marriage with the deceased, as per the principle stated in *Ng Hee Thoong & Anor v. Public Bank Bhd* [1995] 1 CLJ 609; [1995] 1 MLJ 281; [1995] 1 MLRA 48. Furthermore, due to the amendments to the Act, and in the absence of any evidence of registration of the purported marriage under s. 33 of the Act, there is no legal basis to recognise the relationship between the defendant and the deceased as a marriage.

[23] Upon consideration of the evidence and relevant legal principles, this court finds that the plaintiff is the rightful and legal wife of the deceased. The plaintiff has provided unassailable evidence of her marriage, which was solemnised and registered on 18 December 1974, well before the enactment of the LRA.

[24] It must be noted that there are many micro issues regarding the statutory declarations which formed the plaintiff's grouses but they did not dislodge this court's findings.

The 'Puan Sri' Title

[25] During arguments, this court posed a question on the bequeath of the title 'Puan Sri'. It is acknowledged that the title Tan Sri is the second highest title at the Federal Level. His Majesty The King bestows the title based on the recommendation of the Federal Government. When a man is awarded the title Tan Sri, his wife is automatically given the courtesy title 'Puan Sri'. This court understands this practice as a way to acknowledge and honour the spouse of the title holder. To this court's question on the rights to bequeath the title 'Puan Sri' to the legal wife of the deceased, none of the counsels could provide any authority.

[26] The discernment of this court's is that the title 'Puan Sri' for the wife of a Tan Sri in Malaysia is more of a customary and traditional practice rather than a legal right. It has a non-legal nature – the conferral of 'Puan Sri' is not enshrined in legal statutes but is rather a social convention. There is no specific law that mandates the title must be given; it is an automatic courtesy title that accompanies the conferral of Tan Sri. Therefore, while it is a standard and expected practice, it is not a legal entitlement codified in law. It is a respected tradition that is widely adhered to in Malaysian society.

[27] Furthermore, on this position that the 'Puan Sri' title may be more customary is this; when a woman is conferred the title Tan Sri for her achievements, her spouse is not accorded any title. Perhaps based on our historical patriarchal society, titles and awards were designed for a male-dominated realm. But having evolved where honours are now conferred to successful women, custom has not yet caught up to address her spouse. Neither has the law. There are no statutes for this court to base on in determining that right to be conferred and referred the title 'Puan Sri'.

[28] This court is of the considered view that it would be best for the plaintiff to revert to Istana Negara where the deceased's Tan Sri-ship was accorded on 5 June 2010. For the plaintiff's prayer that this court declare she is to be the sole individual who is entitled to use and enjoy the appellation of Puan Sri after the demise of the deceased, this court is not inclined to grant so.

[29] In relation to the plaintiff's prayer to seek an injunction against the defendant from the usage of the title Puan Sri. Evidence on a balance of probabilities did not show that the defendant had indeed used the title. Though this court takes note that the defendant had been referred to as Puan Sri, it was not her doing. It seemed to be from hers and the deceased's social circle. Premised on this, the said relief sought by the plaintiff is not granted.

This Court's Order

[30] Based on the evidence before this court, the defendant had not shown on a balance of probabilities that her purported marriage to the deceased was carried out prior to 1982. Therefore, this court finds it is the plaintiff who is the sole lawful wife of the deceased. This court declares that the plaintiff is such.

[31] This matter could have been resolved while the deceased was still alive and ought not to have reached the corridors of this court. To seek from this court a declaration that the title 'Puan Sri' ought to be accorded when the deceased had long passed was avoidable and it burdened the judicial system and incurred unnecessary costs for all involved. Given all that, this court orders each party to bear its own costs. This should serve as a reminder that litigation should be a last resort, particularly in cases involving personal and familial issues that could have been amicably resolved outside of court.